

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE SMERLING LITIGATION,

21 Civ. 2552 (JPC)

**DECLARATION OF JAMES S. FELTMAN
WITH RESPECT TO THE RECEIVER'S QUARTERLY REPORT
COVERING THE PERIOD JULY 1, 2023 THROUGH SEPTEMBER 30, 2023**

JAMES S. FELTMAN, pursuant to 28 U.S.C. § 1746, declares as follows:

1. I am the receiver (the "Receiver") appointed pursuant to that certain *Order Appointing Receiver*, dated May 14, 2021 (Case No. 1:21-cv-05766-JPC, ECF No. 28) (the "Receivership Order") and that certain *Order Granting Joint Motion to (I) Consolidate SVB Action and Citizens Bank Action Into a Single Action, (II) Appoint James Feltman as Receiver in Consolidated Action, and (III) Grant Unopposed Receivership Expansion Motion* (Case No. 1:21-cv-02552-JPC, ECF No. 98) (the "Receivership Consolidation/Expansion Order").

2. Pursuant to paragraph 12 of the Receivership Order, I attached hereto as **Exhibit "1"** the Receiver's quarterly report covering the period July 1, 2023 through September 30, 2023.

3. I declare under penalty of perjury that the foregoing is true and correct.

Executed on October 17, 2023.


JAMES S. FELTMAN

Exhibit 1

In re Smerling Litigation
United States District Court for the Southern District of New York, Case No. 1:21-cv-02552-JPC
Report of Receiver for the Quarter Ended September 30, 2023

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Attachments

Attachment 1 – Copies of Statements for the City National Bank Receivership Accounts for the Periods Ended
July 31, August 31, and September 29, 2023

In re Smerling Litigation**United States District Court for the Southern District of New York, Case No. 1:21-cv-02552-JPC**

Report of Receiver for the Quarter Ended September 30, 2023

Summary of Activity in Receivership Accounts for the Quarter Ended September 30, 2023

Balances as of June 30, 2023	\$ <u>865,540</u>
Additions:	\$ <u>—</u>
Subtractions:	
Professional fees	\$ 43,975
Miscellaneous disbursements	<u>23,047</u>
Total Subtractions	\$ <u>67,022</u>
Net Additions (Subtractions)	\$ <u>(67,022)</u>
Balances as of September 30, 2023, per City National Bank account statements	\$ <u>798,518</u>
Less: Outstanding payment of professional fees and expenses awarded to James S. Feltman, Receiver, in connection with the Order Granting Unopposed Fourth Interim Application, dated June 27, 2023 ^[1]	(10,403)
Adjusted balances as of September 30, 2023	\$ <u>788,115</u>

¹ Represents a portion of the total fees and expenses of \$40,515.00 awarded to the Receiver in connection with the Order Granting Unopposed Fourth Interim Application, dated June 27, 2023. As reflected on Page 3 of the previous report (for the quarter ended June 30, 2023), \$30,112.50 of the Receiver's award was paid from the receivership accounts on June 28, 2023, via a wire transfer to Kroll Associates, Inc., the firm at which the Receiver was employed through approximately the end of February 2023. The disbursement of the remaining \$10,402.50 of the Receiver's award remained outstanding as of September 30, 2023; however, it is expected to be made during the current quarter.

In re Smerling Litigation

United States District Court for the Southern District of New York, Case No. 1:21-cv-02552-JPC

Report of Receiver for the Quarter Ended September 30, 2023

Monies Collected for the Quarter Ended September 30, 2023

Not Applicable – No monies were collected during the quarter ended September 30, 2023.

In re Smerling Litigation**United States District Court for the Southern District of New York, Case No. 1:21-cv-02552-JPC**

Report of Receiver for the Quarter Ended September 30, 2023

Expenditures for the Quarter Ended September 30, 2023

Item	Date	Amount	Payment Method	Payee	Budget Category and Description
Professional Fees					
1	7/18/23	\$ 43,974.70	Wire Transfer	Pestalozzi Attorneys at Law Limited	Professional Fees – Interim award for services rendered and reimbursements for actual and necessary expenses during the period of 11/1/22 through 5/31/23. ^[2]
		\$ 43,974.70	Subtotal, Professional Fees		
Miscellaneous Disbursements					
2	7/17/23	\$ 268.56	Bank Deduction	City National Bank	Not Budgeted – Monthly service fee for account ending x2847.
3	7/17/23	3.79	Bank Deduction	City National Bank	Not Budgeted – Monthly service fee for account ending x2928.
4	7/18/23	11,593.93	Wire Transfer	Consilio LLC	Informational Technology Expense – eDiscovery services for the 10-month period from September 1, 2022, to June 30, 2023.
5	7/28/23	11,041.19	Wire Transfer	McCarthy Denning Limited	Real Estate Expense (London Flat) – Under the terms of the Loan Agreement, dated August 3, 2022, between Canes UK Holdings Limited and the Receiver, an advance of £8,400.00 for the payment of certain legal fees in connection with the real property located at Flat 32, Riverside Court, 20 Nine Elms Lane, London, England SW8 5DB.
6	8/15/23	132.63	Bank Deduction	City National Bank	Not Budgeted – Monthly service fee for account ending x2847.
7	8/15/23	3.25	Bank Deduction	City National Bank	Not Budgeted – Monthly service fee for account ending x2928.
8	9/15/23	3.25	Bank Deduction	City National Bank	Not Budgeted – Monthly service fee for account ending x2928.
		\$ 23,046.60	Subtotal, Miscellaneous Disbursements		
		\$ 67,021.30	Total Expenditures		

² Pursuant to the Order Granting Unopposed Fourth Interim Application, dated June 27, 2023.

In re Smerling Litigation

United States District Court for the Southern District of New York, Case No. 1:21-cv-02552-JPC

Report of Receiver for the Quarter Ended September 30, 2023

Check Disbursements for the Quarter Ended September 30, 2023

Not Applicable – No expenditures for the quarter ended September 30, 2023, were made with checks drawn on the City National Bank receivership accounts.

In re Smerling Litigation

United States District Court for the Southern District of New York, Case No. 1:21-cv-02552-JPC

Report of Receiver for the Quarter Ended September 30, 2023

Statements for Receivership Accounts

Refer to the **Attachment 1** for statements for City National Bank Receivership accounts ending x2847 and x2928 for the periods ended July 31, August 31, and September 29, 2023.



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CASE NO 21-CV-80815 AMC
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P:5144 / T: / S:



Regular Commercial Checking

Account Summary

Account:	XXXXXXXX2847	Beginning Balance:	\$646,372.81
Last Statement:	June 30, 2023	Ending Balance:	\$579,494.43
This Statement:	July 31, 2023	Average Ledger Balance:	\$619,722.68
		Low Balance:	\$579,494.43

Daily Activity

Date	Description	Deposits/ Additions	Withdrawals/ Subtractions	Balance
06-30	Beginning balance			646,372.81
07-17	Monthly Service Fee		268.56	646,104.25
07-18	Wire Transfer Consilio 021001088000942		11,593.93	634,510.32
07-18	Wire Transfer Pestalozzi Attorneys 026005092000615		43,974.70	590,535.62
07-28	Wire Transfer Mccarthy Denning Limi Wfbius6ssfo		11,041.19	579,494.43
07-31	Ending totals	0.00	66,878.38	579,494.43

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- #24 Best Bank for Commercial Real Estate Lending
- #25 Best Community Bank
- #26 Best Bank for Jumbo Loans
- #27 Best Bank for Wealth Management
- #28 Best Foreign National Mortgage Lending

You can complete the entire survey, or simply vote in these categories.
Voting starts on July 31 and ends on August 25, 2023. Vote by visiting
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Regular Commercial Checking

Account Summary

Account:	XXXXXX2847	Beginning Balance:	\$579,494.43
Last Statement:	July 31, 2023	Ending Balance:	\$579,361.80
This Statement:	August 31, 2023	Average Ledger Balance:	\$579,421.69
		Low Balance:	\$579,361.80

Daily Activity

Date	Description	Deposits/ Additions	Withdrawals/ Subtractions	Balance
07-31	Beginning balance			579,494.43
08-15	Monthly Service Fee		132.63	579,361.80
08-31	Ending totals	0.00	132.63	579,361.80

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**City
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Regular Commercial Checking**Account Summary**

Account:	XXXXXXX2847	Beginning Balance:	\$579,361.80
Last Statement:	August 31, 2023	Ending Balance:	\$579,361.80
This Statement:	September 29, 2023	Average Ledger Balance:	\$579,361.80
		Low Balance:	\$579,361.80

Daily Activity

Date	Description	Deposits/ Additions	Withdrawals/ Subtractions	Balance
08-31	Beginning balance			579,361.80
09-29	Ending totals	0.00	0.00	579,361.80

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Regular Commercial Checking

Account Summary

Account:	XXXXXXX2928	Beginning Balance:	\$219,166.58
Last Statement:	June 30, 2023	Ending Balance:	\$219,162.79
This Statement:	July 31, 2023	Average Ledger Balance:	\$219,164.74
		Low Balance:	\$219,162.79

Daily Activity

Date	Description	Deposits/ Additions	Withdrawals/ Subtractions	Balance
06-30	Beginning balance			219,166.58
07-17	Monthly Service Fee		3.79	219,162.79
07-31	Ending totals	0.00	3.79	219,162.79

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Regular Commercial Checking

Account Summary

Account:	XXXXXX2928	Beginning Balance:	\$219,162.79
Last Statement:	July 31, 2023	Ending Balance:	\$219,159.54
This Statement:	August 31, 2023	Average Ledger Balance:	\$219,161.00
		Low Balance:	\$219,159.54

Daily Activity

Date	Description	Deposits/ Additions	Withdrawals/ Subtractions	Balance
07-31	Beginning balance			219,162.79
08-15	Monthly Service Fee		3.25	219,159.54
08-31	Ending totals	0.00	3.25	219,159.54

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Account:	XXXXXXX2928	Beginning Balance:	\$219,159.54
Last Statement:	August 31, 2023	Ending Balance:	\$219,156.29
This Statement:	September 29, 2023	Average Ledger Balance:	\$219,157.85
		Low Balance:	\$219,156.29

Daily Activity

Date	Description	Deposits/ Additions	Withdrawals/ Subtractions	Balance
08-31	Beginning balance			219,159.54
09-15	Monthly Service Fee		3.25	219,156.29
09-29	Ending totals	0.00	3.25	219,156.29

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